UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

SMART VENT PRODUCTS, INC.,	:	
	:	
Plaintiff,	:	CIVIL ACTION NO.:
	:	
v.	:	
	:	
TED SHOOK, d/b/a AMERICAN FLOODVENT and d/b/a LONE STAR FLOOD VENTS	:	**JURY TRIAL DEMANDED**
	:	
Defendants.	:	

COMPLAINT

COMES NOW, the Plaintiff, Smart Vent Products, Inc. ("Smart Vent"), by and through its undersigned counsel, and for its complaint against Defendant, Ted Shook d/b/a American Floodvent and d/b/a Lone Star Flood Vents, avers as follows:

PARTIES

1. Smart Vent is a corporation organized under the laws of the State of Florida, with a principal place of business at 430 Andbro Drive, Unit 1, Pitman, New Jersey, 08071.

2. Ted Shook, on information and belief, does business as American Floodvent and Lone Star Flood Vents (hereafter, "American Floodvent" or "AFV"), and has a principal place of business at 11 Mariner Pass, Galveston, TX 77554, and further has a mailing address of P.O. Box 16502, Galveston, Texas, 77552.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1338 and 15 U.S.C. § 1121, because this Complaint raises claims arising under the laws of the United States, including 15 U.S.C. § 1125 and 35 U.S.C. § 271.

4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(1) and (d) because American Floodvent is deemed to reside in this judicial district as it is subject to personal jurisdiction in this judicial district pursuant to 28 U.S.C. §§ 1391(b)(2), 1391(c)(2), and 1400(b) because a substantial part of the events or omissions giving rise to the claims occurred within this judicial district.

5. This Court has personal jurisdiction over AFV based on regularly conducting business in this state and based in part on tortious acts intended to cause damage to New Jersey resident Smart Vent.

6. Venue is proper in this district pursuant to 28 U.S.C. § 1391, including 1391(b) and (d).

FACTS

7. Smart Vent manufactures, offers to sell, and sells flood mitigation and ventilation systems in the form of foundation flood vents.

8. The purpose of these vents is to allow flood waters to flow freely into and out of the lower level of structures. If water pressure were to build up on either the interior or exterior of foundation walls in a flood situation, the foundation walls

could be compromised and significant property damage could occur as a result, such as buckling and collapsing of a foundation wall:

9. Foundation flood vents automatically allow flood waters to reach equal levels on both sides of the walls, which decreases the potential for differences in water pressure on opposite sides of the walls, thus lowering the possibility of structural damage to the walls.

10. American Floodvent is in the business of manufacturing, distributing, selling and offering for sale, among other items, foundation flood vents.

11. American Floodvent competes with Smart Vent for consumers of flood vent products.

12. American Floodvent's advertised goods, namely, its flood vents, have traveled in interstate commerce.

13. American Floodvent is a manufacturer of mass-produced flood vents.

Smart Vent's U.S. Patent

14. On August 31, 1999, the United States Patent & Trademark Office ("USPTO") issued U.S. Patent No. 5,944,445 (the "'445 Patent"), entitled "Device and Method for Relieving Flooding from Enclosed Space." A true and correct copy of the '445 Patent is attached as Exhibit A.

15. Smart Vent is the owner by assignment of the '445 Patent, and owns all rights, title, and interest in the patent-in-suit, including the right to sue for and recover all past, present, and future damages for infringement of the patent-in-suit.

16. The patent-in-suit is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code, with the reexamination certificate being issued on February 12, 2014.

NFIP, NFIP Insurance Manual and TB-1

17. With the passage of the National Flood Insurance Act of 1968, the United States Congress established the National Flood Insurance Program ("NFIP"). See http://www.fema.gov/flood-insurance-reform, last visited March 8, 3017.

18. The NFIP is a program of the federal government which enables property owners in participating communities to purchase flood insurance in exchange for State and community floodplain management regulations that seek to reduce future flood damage. See http://www.fema.gov/flood-insurance-reform-reducing-risk-and-rates, last visited

March 8, 2017.

19. The NFIP Insurance Manual is used to issue flood insurance policies under the NFIP. In particular, Section 5 of the NFIP Insurance Manual establishes the rates for those policies. Ex. B.

Requirements for Engineered Flood Vents

20. The NFIP is administered by the Federal Emergency Management Agency ("FEMA").

21. FEMA works closely with private insurance companies to offer flood insurance to property owners. In order to qualify for flood insurance, a community must join the NFIP and agree to enforce sound floodplain management standards.

22. One of the important objectives of the NFIP is the protection of buildings that are constructed in special flood hazard areas ("SFHAs") from damage caused by flood forces. In support of this objective, the NFIP regulations include minimum building design criteria that apply to new construction, repairs of substantially damaged buildings, and substantial improvements of existing buildings in SFHAs. Some of these requirements are set forth in the document "Openings in Foundation Walls and Walls of Enclosures," FEMA Technical Bulletin 1, August 2008 (hereafter "TB-1"). (Ex. C.)

23. TB-1, as amended, requires certain minimum building design criteria, including the use of flood vents for certain properties in flood zone areas.

24. As set forth in TB-1, the NFIP recognizes two types of flood vents for relieving the pressure of flood waters on the walls of enclosed spaces: "non-engineered openings" and "engineered openings."

25. Under TB-1, as amended, a "non-engineered opening" is an opening in the wall of a structure which allows flood waters to flow inside the structure. The NFIP Insurance Manual requires a specific ratio between the size of the opening of the wall to the size of the area enclosed by the wall to insure that enough water can flow into, and out of, the structure, so as to reduce the possibility of excessive water pressure.

26. Non-engineered openings must meet the NFIP's requirement that 1 square inch of net open area exist in the structure's walls for every 1 square foot of area inside of the enclosed space. As examples, leaving openings in brickwork, or omitting blocks from foundation walls, may constitute "non-engineered openings." Additional NFIP requirements exist regarding non-engineered openings. TB-1 at 20-23.

27. Under TB-1, as amended, "engineered openings" are specifically defined as:

> …an opening that is designed and certified by a registered design professional as meeting certain performance characteristics related to providing automatic entry and exit of flood waters; the certification requirement may be satisfied by an individual

> certification or issuance of an Evaluation Report by the ICC Evaluation Service, Inc. …." Ex. C (TB-1 at 31).

28. Engineered openings (also called "engineered flood vents") may be accepted by local officials as an alternative to non-engineered openings provided the designs meet the certification requirements set forth in TB-1. Ex. C (TB-1 at 25).

29. Engineered openings can be certified in one of two methods.

30. For the first option, the certification can be an Evaluation Report issued by the International Code Council Evaluation Services, Inc. ("ICC-ES"). The ICC-ES is a subsidiary of the International Code Council ("ICC").

31. As set forth in TB-1, "Evaluation Reports are issued only after the ICC-ES performs technical evaluations of documentation submitted by a manufacturer, including technical design reports, certifications and testing that demonstrate current compliance and performance." Ex. C (TB-1 at 25).

32. For the second option, the certification can be an individual certification.

33. Individual certifications are for unique or individually designed openings.

34. Individual certifications must be prepared by a registered design professional and require certain information, including, but not limited to:

(a) information about the design professional, his or her license, signature, and applied seal;

(b) a statement certifying that the openings are designed to automatically equalize hydrostatic flood loads on exterior walls by allowing the automatic entry and exit of floodwaters in accordance with the design requirements of Engineered openings as set forth in [ASCE 24], which is referenced by the International Building Code;

(c) a description of the range of flood characteristics tested or computed for which the certification is valid, such as rates of rise and fall of floodwaters; and

(d) a description of the installation requirements or limitations that, if not followed, will void the certification.

Exhibit C (TB-1 at 25).

35. On October 23, 2008, FEMA issued NFIP Underwriting Bulletin W-08086, further clarifying the requirements for engineered openings designed for installation in a specific building:

> For engineered openings designed for installation in a specific building, a copy of the certification is required…**The original certification** statement must include the design professional's name, title, address, type of license, license number, the state in which the license was issued, and the signature and applied seal of the certifying registered design professional. In addition, **this certification shall identify the building in which the engineered openings will be installed** and it shall address the following: (a) a statement certifying that the openings are designed to automatically equalize hydrostatic flood loads on exterior walls by allowing the automatic entry and exit of floodwaters; (b) description of the range of flood characteristics tested or computed for which the certification is valid, such as rates of rise and fall of floodwaters; and (c) description of the installation requirements or limitations that, if not followed, will void

> the certification….

Exhibit D (Memorandum W-08086, dated October 23, 2008, clarifying TB-1 requirements, emphases added.)

36. The Rating section of the NFIP Insurance Manual provides, in relevant part:

> This section contains information, including rate tables, required to accurately rate a National Flood Insurance Program (NFIP) flood insurance policy. . .The detailed drawings, and accompanying text and tables, in the Lowest Floor Guide section are to be used as a guide for identifying the lowest floor for rating buildings. This guide will assist in determining the proper rate for the building. Examples of some rating situations are shown at the end of this section.

Ex. B, at RATE, p. 1, *see also* 24, section VIII.A. (stating "elevation difference" is used to determine premium rates, and is the distance between the lowest floor used for rating a structure and the base flood elevation for that flood zone; "Refer to the Lowest Floor Guide section for a guide to determining the lowest floor.").

37. Section 7 of the NFIP Insurance Manual, titled "Lowest Floor Guide," provides instructions for identifying the "lowest floor" of a structure when rating a building under consideration for insurance coverage. Ex. E (Section 7 of the NFIP Manual, titled "Lowest Floor Guide," p. 1.)

38. If an elevated building (defined as a building with no basement and that has its lowest elevated floor raised above ground level by foundation walls, shear

walls, posts, piers, pilings, or columns) has an enclosure below the elevated floor, such as a crawl space or an attached garage, the enclosure (i.e., the crawl space or the garage) becomes the lowest floor for rating purposes. (*Id.* at 1.)

39. However, if the enclosure has “proper openings” then the building can be rated for insurance purposes using the elevated floor as the lowest floor. (*Id.* at LFG, p. 2 at ¶ 1 (“Proper Opening Requirements”).)

40. Engineered openings (that is, engineered flood vents), qualify as “proper openings” if the flood vents meet the “design requirements and specifications for certification statements” set forth in TB-1. (*Id.* at LFG, p. 2 at ¶ 2 (“Alternative to the Openings Requirement Above”).)

41. When the elevated floor is designated “the lowest floor” for ratings, the insurance premiums are lower. Ex. B. (NFIP Manual Rating Tables at RATE, pp. 2-16.)

42. FEMA, through the NFIP, requires engineered flood vents to conform to TB-1’s mandates, which includes proper documentation, to qualify for lower flood insurance premiums. These mandates, among other items, do not permit mass-produced engineered flood vents, such as American Floodvent’s flood vents, to be individually certified; instead, they require an Evaluation Report issued by the International Code Council (ICC) Evaluation Service, Inc. (“ICC”) for such flood vents. Ex. C (TB-1 at 24); Ex D (Lowest Floor Guide at LFG p. 2).

43. American Floodvent has not obtained an Evaluation Report issued by the ICC-ES concerning the flood vents that it sells.

44. American Floodvent's mass-produced flood vents cannot be described as engineered flood vents because they do not comply with TB-1's certification requirements or the NFIP Insurance Manual for "engineered" flood vents.

45. Whether flood insurance premiums can be lowered by the installation of flood vents is one of the most important considerations in a consumer's decision to purchase flood vents.

46. Meeting the requirements of TB-1, as specified in the NFIP Insurance Manual's Lowest Floor Guide, is a prerequisite for a building owner to qualify for a lower insurance premium with engineered flood vents.

American Floodvent's Marketing and Advertising

47. American Floodvent suggests in commercial marketing and advertising that its flood vents comply with TB-1's requirements because they are "engineered" openings.

48. American Floodvent states in commercial marketing and advertising the following about its flood vents: "These engineered floodvents are FEMA compliant, ICC compliant and engineer and architectural tested and certified."

49. The use of the term "engineered" falsely communicates to customers that insurance premiums can be substantially lowered by the installation of

American Floodvent flood vents.

50. The American Floodvent packaging prominently states that the products are "engineering certified" and "ICC Compliant" and "FEMA Compliant."

51. Certificates are provided with the American Floodvent flood vents, but the certificates are template-styled certifications where the consumer or structure owner fills in an address for the structure where a given flood vent is installed. Ex. F.

52. American Floodvent states in commercial marketing and advertising that its "louvered" flood vents conform to Insurance Manual requirements and guidelines of the NFIP. Ex. F.

53. American Floodvent manufactures, offers to sell, and sells three different flood vent models: FV-1, FV-2, and FV-316.

54. American Floodvent's flood vents are not specifically designed for unique or individual applications.

55. American Floodvent cannot use an individual certification to meet the requirements set forth in TB-1 or the NFIP Insurance Manual's Lowest Floor Guide or to market their flood vents as "engineered flood vents" that will allow consumers of its flood vent products to receive lower insurance premiums. Ex. C. (TB-1 at 24; Ex. E (LFG at 2-3).

56. Despite the above, American Floodvent markets its flood vents and advertises that its flood vents are "engineered," "FEMA compliant," and are "ICC

compliant and engineer and architectural tested and certified." See http://americanfloodvent.com/ (last visited March 8, 2017).

Welcome to American Floodvent website.
American FLOODVENT
HOME
Technical Info
Product Info
Stainless Steal Vent
Order Now
Contact Info
NEW PRODUCT FV- 316
Stainless Steal Vents now available
Did you know homes stand a better chance of surving a natural disaster when foundation flood vents are installed. This is a flood defense product which is proven. This product will also allow for foundation ventilation which is important for a green healthy home. These floodvents meet flood insurance standards. These engineered floodvents are FEMA compliant, ICC compliant and engineer and architectural tested and certified.
For helpful information and downloads click here
If you have any questions click here
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57. Despite knowledge of TB-1 regulations, American Floodvent engaged an engineer to sign a "certification", which certification purports to make American Floodvent's flood vents compliant with the NFIP Insurance Manual, TB-1, and ASCE 24-05.

58. American Floodvent has hired an engineer to sign and place a Texas State registration seal on template-styled "Certification of Engineered Flood

Openings" documents.

59. While American Floodvent attempts to market its products as "engineered" flood vents, none of American Floodvent's certifications are "original," none of the certifications "identify the building in which the engineered openings will be installed," TB-1 at 24, and there is no required ICC-ES Evaluation Report.

60. American Floodvent falsely suggests that its flood vents "meet flood insurance standards" for "engineered floodvents" that are "FEMA compliant, ICC compliant and engineer and architectural tested and certified" without having met the industry requirements for "engineered" flood vents, as defined by FEMA.

CAUSES OF ACTION

Count I
Infringement of the '445 Patent

61. Smart Vent repeats and incorporates by reference the allegations made in the foregoing paragraphs of this Complaint as if fully set forth herein.

62. Claim 15 of the Patent, in the Reexamination Certificate (Ex. A), recites:

> 15. A flood gate for use in an enclosed space, the flood gate comprising:
>
> an outer frame having side walls defining a fluid passageway therethrough, wherein the outerframe has a width of a standard concrete masonry unit CMU,

> a height of one or two CMU's,
>
> a door pivotally mounted in said frame for bidirectional rotation between two open positions and a closed position therebetween to permit tidal water flow therethrough,
>
> wherein the door is recessed from the front and back of the outer frame, and includes a ventilation opening,
>
> at least one catching assembly for holding the door in said closed position against a minimum level of pressure of said tidal water flow;
>
> whereby tidal flood waters exceeding said minimum pressure level are automatically vented through said enclosed space reducing a risk of structural damage from said tidal flood waters.

63. The '445 Patent is for a device installed in a structure which provides for the free and automatic flow of flood water through a wall to reduce the pressure the flood waters could place on that wall.

64. The Patent concerns a flood gate for use in an enclosed space.

65. American Floodvent claims its devices FV-1 and FV-316 (the "accused devices") are designed to protect property from flood damage by allowing for the automatic entry and exit of floodwaters. Ex. G.

66. These American Floodvent models are to be installed in the walls of an enclosed space.

67. Claim 15 requires "an outer frame having side walls defining a fluid

passageway therethrough, wherein the outerframe has a width of a standard concrete masonry unit CMU."

68. An "outer frame" includes the border that surrounds the fluid passageway on the American Floodvent product, and in which the door is mounted, but excludes the face plate or front portion of the product.

69. American Floodvent products FV-1 and FV-316 have the outer frame described in the patent claims, as would be understood by a person having skill in the art.

70. Claim 15 requires the outer frame to have a "width and height of a standard concrete masonry unit (CMU)" which has been construed to be an 8" by 16" measurement, plus or minus a 3/8" mortar joint.

71. The American Floodvent FV-1 device has an outer frame which measures 7 and 5/8 inches in vertical height and between 15 5/8 and 15 ¾ inches in horizontal width.

72. The outer frame of the fluid passageway includes that exterior portion of the accused devices which is placed into the wall and which surrounds the fluid passageway.

73. The FV-1 and FV-316 devices are intended to replace a CMU, or a "cinder block," or to be installed into a wood wall opening of that CMU size. American Floodvent instructs users to create a rough opening for vents of about 8

¼" by 16 ¼".

74. The dimensions of the outer frame in the accused FV-1 and FV-316 devices fall within the range of the width and height of a standard concrete masonry unit.

75. Claim 15 also requires a "door" which is "recessed."

76. A door is a movable barrier which can open and close.

77. A "screen" is a structure having holes which are small enough to prevent penetration by animals, insects, and other pests, and which are large enough to permit airflow.

78. A "ventilation opening" is "a hole which allows the free passage of air."

79. The FV-1 and FV-316 models have a door which is a movable barrier that is mounted on small cylindrical pins in the frame. The door swings in opposite directions between open and closed positions.

80. These doors include ventilation openings in a grille pattern.

81. These doors satisfy the claim element of a grille pattern backed by screening under the doctrine of equivalents. These doors have a large number of ventilation openings which allow the free flow of air and are small enough to also act as a screen.

82. The doors in the accused FV-1 and FV-316 devices allow air to pass

through the door in the same manner as if the door had a grille pattern in it, backed by screening.

83. These doors also have holes which are small enough to act as a screen and to allow air to pass through but also act as a barrier and prevent penetration by unwanted items, such as animals.

84. By allowing air to pass through the door, but still preventing access through the door by unwanted items, such as animals, the doors in the accused FV-1 and FV-316 devices are insubstantially different from a door with a grille pattern backed by screening, and perform substantially the same function in substantially the same way to achieve substantially the same result.

85. All aspects of the door in the FV-1 device, and all material aspects of the FV-316 device, are recessed from the front and back of the outer frame.

86. "Recessed" means set inwardly from the front and the back of the outer frame.

87. The door of the AFV FV-1 and FV-316 – the moveable barrier – is recessed and held in place in a closed position by small tabs of approximately 1/8" to 3/16" in height, or by a channel molded into the frame.

88. Additionally, the door meets the requirements of a "door" under the doctrine of equivalents.

89. The doors in the accused devices are the equivalent to a door made of a

barrier that is set inwardly from the front and back of the outer frame.

90. Claim 15 also requires "at least one catching assembly for holding the door in said closed position against a minimum level of pressure of said tidal water flow," and that at the minimum level of pressure, the door is released, "whereby tidal flood waters exceeding said minimum pressure level are automatically vented through said enclosed space reducing a risk of structural damage from said tidal flood waters."

91. The FV-1 and FV-316 devices have a catching assembly which holds the door in a closed position. There are multiple tabs at the bottom of the inner frame, and these tabs catch the rubber strip located at the bottom of the door, and hold the rubber strip and the door in a closed position. When sufficient pressure is applied to the door by flood waters, the rubber strip is forced out of the position created by the tabs, opening the door and allowing water to flow through the vent.

92. Since the door opens in both directions, flood waters can flow into and out of the enclosed space.

93. The FV-1 and FV-316 models infringe at least Claim 15 of the '445 Patent.

94. American Floodvent has infringed one or more claims of the '445 Patent by making using, offering to sell, and selling flood vents, including without limitation the FV-1 and FV-316 flood vents.

95. Smart Vent, as the owner of the '445 Patent, has been damaged as a result of American Floodvent's conduct of making, using, offering to sell, and selling the infringing devices, and is entitled to recover for the damages it has sustained. American Floodvent's infringement is willful and deliberate, entitling Smart Vent to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

Count II
Unfair Competition, 15 U.S.C. § 1125

96. Smart Vent repeats and incorporates by reference the allegations made in the foregoing paragraphs of this Complaint as if fully set forth herein.

97. This Count is for unfair competition and arises under the Lanham Act, 15 U.S.C. §§ 1051-1127 in general, and 15 U.S.C. § 1125(a)(1)(B) in particular.

98. American Floodvent has engaged in various acts of unfair competition, including those set forth in detail herein. The false and/or misleading statements by American Floodvent include the literally false statement made by American Floodvent that its flood vents are "engineered" flood vents, "ICC complaint," and "FEMA compliant," that the vents "meet insurance standards," and that the vents are "engineer and architectural tested and certified."

99. The statement that its flood vents meet the requirements of FEMA, NFIP and TB-1 are false and misleading statements about American Floodvent's

flood vent products.

100. These false statements about American Floodvent's products deceive and are likely to deceive a substantial portion of the purchasers of flood vents.

101. American Floodvent's aforementioned statements are material in that the statements influence the purchasing decisions of consumers.

102. As a direct and proximate result of American Floodvent's actions and statement, there is actual deception of the intended audience, namely, the consumers of the flood vents.

103. American Floodvent's advertised goods, namely, the flood vents, have traveled in interstate commerce.

104. Smart Vent has been injured as the direct and proximate result of American Floodvent's acts complained of herein, and there is a likelihood of continued injury to Smart Vent as result of American Floodvent's acts complained of herein.

Count III
Unfair Competition, N.J.S.A. §§ 56:4-1 AND 56:4-2

105. Smart Vent repeats and incorporates by reference the allegations made in the foregoing paragraphs of this Complaint as if fully set forth herein.

106. This Count is for unfair competition and arises under the New Jersey Unfair Competition Statute, N.J.S.A. §§ 56:4-1 *et seq*.

107. American Floodvent's acts of unfair competition include, but are not limited to, the following.

108. American Floodvent has stated that its flood vents meet the requirements of FEMA, NFIP and TB-1.

109. The statement that its flood vents meet the requirements of FEMA, NFIP and TB-1 are false and misleading statements about American Floodvent's flood vent products.

110. These false statements about American Floodvent's products deceive and are likely to deceive a substantial portion of the purchasers of flood vents.

111. American Floodvent's aforementioned statements are material in that the statements influence the purchasing decisions of consumers.

112. As a direct and proximate result of American Floodvent's actions and statements, there is actual deception of the intended audience, namely, the consumers of the flood vents.

113. Smart Vent has been injured as the direct and proximate result of American Floodvent's acts complained of herein, and there is a likelihood of continued injury to Smart Vent as result of American Floodvent's acts complained of herein.

Count IV
Unfair Competition, New Jersey Common Law

114. Smart Vent repeats and incorporates by reference the allegations made in the foregoing paragraphs of this Complaint as if fully set forth herein.

115. This Count is for unfair competition and arises under New Jersey common law.

116. American Floodvent's acts of unfair competition include, but are not limited to, the following.

117. American Floodvent has stated that its flood vents are "engineered" flood vents that meet the requirements of FEMA, NFIP and TB-1 and that these flood vents can be used to lower insurance premiums being "engineered" and certified flood vents.

118. The statement that its flood vents meet the requirements of FEMA, NFIP and TB-1 are false and misleading statements about American Floodvent's flood vent products.

119. These false statements about American Floodvent's products deceive and are likely to deceive a substantial portion of the purchasers of flood vents.

120. American Floodvent's aforementioned statements are material in that the statements influence the purchasing decisions of consumers.

121. As a direct and proximate result of American Floodvent's actions and

statements, there is actual deception of the intended audience, namely, the consumers of the flood vents.

122. Smart Vent has been injured as the direct and proximate result of American Floodvent's acts complained of herein, and there is a likelihood of continued injury to Smart Vent as result of American Floodvent's acts complained of herein.

WHEREFORE, Plaintiff prays for a judgment against Defendant American Floodvent, and requests that this Court:

1. Enter a finding and a judgment in favor of Smart Vent and against American Floodvent for patent infringement and award compensatory damages to Plaintiff, together with pre-judgment and post-judgment interest and costs as provided by 35 U.S.C. § 284;

2. Enter an award of treble damages to Smart Vent for American Floodvent's willful infringement of the '445 Patent pursuant to 35 U.S.C. § 284;

3. Enter a preliminary and permanent injunction enjoining and restraining American Floodvent and their affiliates, subsidiaries, officers, directors, employees, agents, representatives, licensees, successors and assigns, and all those acting for and on their behalf, or acting in concert with them, for making, using, offering to sell and/or selling any product and/or service that falls within the scope of any claim of the Smart Vent's patent in suit pursuant to 35 U.S.C. § 283, and for all further and proper injunctive relief;

4. Enter a finding that this case is exceptional and an award of Smart Vent's costs and reasonable attorneys' fees under 35 U.S.C. § 285 or other applicable law;

5. Award actual damages, incidental damages, and consequential damages as permitted by law, including punitive and treble damages, pursuant to 15 U.S.C. § 1117(b), N.J.S.A. 56:4-2, or the common law;

6. Award all of Defendant's profits or gains resulting from Defendant's willful acts of unfair competition as provided by 15 U.S.C. § 1117, N.J.S.A. § 56:4-2, or the common law;

7. Award interest, attorneys' fees, costs and disbursements due to the exceptional nature of this case as provided by 15 U.S.C. § 1117, by N.J.S.A. § 56:4-2, or the common law;

8. Enjoin Defendant, its affiliates, subsidiaries, officers, directors, employees, agents, representatives, licensees, successors and assigns, and all those acting for and on their behalf, or acting in concert with them from further acts of unfair competition;

9. Award all further and proper injunctive relief, and all such other relief as permitted by law that this Court deems appropriate; and

10. Such other relief, at law or in equity, as the Court deems just and proper.

JURY DEMAND

Smart Vent Products, Inc. hereby demands a trial by jury on all issues so triable.

Dated: March 8, 2017

Respectfully submitted,

/s/ Emmett Collazo
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